

TWELFTH DAY

(Wednesday, February 4, 1959)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Lane
Baker	Moffett
Bradshaw	Owen
Colson	Parkhouse
Crump	Phillips
Dies	Ratliff
Fly	Reagan
Fuller	Roberts
Gonzalez	Rogers
Hardeman	Secrest
Hazlewood	Smith
Herring	Weinert
Hudson	Willis
Kazen	Wood
Krueger	

Absent—Excused

Martin	Moore
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A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Leaves of Absence

Senator Martin was granted leave of absence for today on account of important business on motion of Senator Aikin.

Senator Moore was granted leave of absence for today on account of important business on motion of Senator Owen.

Senate Resolution 45

Senator Phillips offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate 42 Senior Students from the Needville High School of Needville, Texas, accompanied by their sponsor, Val Hinze, and bus driver, Henry Lehman; and

Whereas, These students are on an

educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this Resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Phillips by unanimous consent presented the students and sponsors to the Members of the Senate.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
February 4, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. C. R. No. 10, In Memory of Mrs. Sam Johnson.

H. C. R. No. 20, Inviting Senator Hubert R. Hudson to address a Joint Session of both Houses on Wednesday, February 11, 1959.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Senate Resolution 44

Senator Herring offered the following resolution:

In Honor of Dr. Malcolm Y. Colby

Whereas, The people of the State of Texas wish to acknowledge the debt they owe Doctor Malcolm Y. Colby, distinguished member of the faculty of the University of Texas, who has retired after thirty-four years of devoted service; and

Whereas, Doctor Colby served as Chairman of the Department of Physics for many years; and

Whereas, In addition to his devoted service to the University, Doctor Colby was Executive Director of the War Research Laboratory during

World War II which pursued research vital to the war effort and also served as counselor for the Oak Ridge Institute of Nuclear Studies from 1953 to 1957; and

Whereas, Doctor Colby has been a source of inspiration to the many thousands of students who have come under his tutelage and they in turn have been greatly enriched by that association; and

Whereas, The State has derived immeasurable benefits from the many years of dedicated service of this devoted educator; and

Whereas, It is the desire of the Senate of the Fifty-sixth Legislature of the State of Texas to acknowledge the contribution to education of this outstanding man; now, therefore, be it

Resolved, That when the Senate adjourns today, it do so in his honor and that a page in the permanent Senate Journal be devoted to the recording of this Resolution; and, be it further

Resolved, That an enrolled copy of this Resolution be sent to Doctor Colby as a token of deep appreciation for the services he has rendered.

The resolution was read and was adopted.

Reports of Standing Committee

Senator Moffett submitted the following reports:

Austin, Texas,
February 4, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Agriculture and Livestock, to whom was referred S. B. No. 32, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

MOFFETT, Chairman.

Austin, Texas,
February 4, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Agriculture and Livestock, to whom was referred S. B. No. 18, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

MOFFETT, Chairman.

Austin, Texas,
February 4, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Agriculture and Livestock, to whom was referred S. B. No. 58, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

MOFFETT, Chairman.

Senate Bills on First Reading

The following bills were introduced, read first time and referred to the committees indicated:

By Senator Ratliff:

S. B. No. 97, A bill to be entitled "An Act amending Article 1427 of the Penal Code of Texas, 1925, to make unlawful the taking of any public records; prescribing a penalty; providing venue; repealing laws in conflict; and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Baker:

S. B. No. 98, A bill to be entitled "An Act to amend Chapter 16, Title 15, Article 1257b of the Penal Code of 1925, as amended in 1927, providing punishment for murder without malice; and declaring an emergency."

To the Committee on Jurisprudence.

By Senators Herring and Krueger:

S. B. No. 99, A bill to be entitled "An Act making an appropriation for an increase in salaries and wages of State officials and employees for the remainder of the fiscal year ending August 31, 1959, supplementing the appropriations provided for in Articles I, II, III, and V of Chapter 385, Acts of the 55th Legislature, Regular Session, 1957; making certain exceptions to such salary increases; prescribing the manner of calculating the increases and of allocating the costs thereof to various State funds; authorizing the Comptroller to issue rules and regulations to effectuate the purpose of this Act; and declaring an emergency."

To the Committee on Finance.

By Senator Herring:

S. B. No. 100, A bill to be entitled

"An Act making appropriations to pay miscellaneous claims out of the General Revenue Fund, or such other funds as may be designated herein for each item, not otherwise appropriated; providing that before payment of any claim shall be paid from the funds hereby appropriated, the same shall have the approval of the State Auditor, the State Comptroller and the Attorney General; providing further that any claim involving the refund of a franchise tax shall also carry the approval of the Secretary of State in addition to the other officials herein named; and declaring an emergency."

To the Committee on Claims.

By Senator Gonzalez:

S. B. No. 101, A bill to be entitled "An Act relating to review of action of boards of equalization in tax matters; authorizing the District Court to hear and determine controversies on the basis of evidence produced before the court and requiring the court to correct erroneous assessments by fixing the value to be placed upon the property; repealing conflicting laws; and declaring an emergency."

To the Committee on State Affairs.

By Senator Owen:

S. B. No. 102, A bill to be entitled "An Act validating the organization and creation of County-wide hospital districts created or attempted to be created by authority of Chapter 266, Acts of the 53rd Legislature as amended by Chapter 257 Acts of the 54th Legislature, validating all acts of the Commissioners' Courts of such counties in ordering an election or elections for the creation of such districts and in canvassing the returns and declaring the result thereof; validating such election or elections; providing that this Act shall apply only to such eligible hospital districts in which an election has been held and which resulted in the adoption of the statutory proposition for the creation of such districts, the levying of the tax and the assumption of hospital bonds; providing that this Act shall not apply to any district involved in litigation, if such litigation is ultimately determined against the validity of the district; and declaring an emergency."

To the Committee on Counties, Cities and Towns.

By Senator Owen:

S. B. No. 103, A bill to be entitled "An Act providing for penalties and attorney fees recoverable for prosecution and collection of unpaid losses under any contract of insurance for which any insurer is liable thereunder; repealing certain laws; and declaring an emergency."

To the Committee on Insurance.

By Senator Lane:

S. B. No. 104, A bill to be entitled "An Act providing that defendants may put up cash money or the equivalent thereof in approved securities in lieu of a bond or recognizance in all cases where bail is allowed under existing law; providing for a forfeiture, the safe keeping and return of same, the procedure and construction in regard thereto; and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Lane:

S. B. No. 105, A bill to be entitled "An Act to amend Article 582 of the Code of Criminal Procedure of Texas of 1925; and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Lane:

S. B. No. 106, A bill to be entitled "An Act to amend Chapter 3, Title 8, Article 616, of the Code of Criminal Procedure of Texas of 1925, enumerating reasons for challenge for cause, and amending cause No. 10, providing for a challenge because of conscientious scruples in regard to the infliction of the punishment of death for crime, only in a case where the State is seeking a death penalty; and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Lane:

S. B. No. 107, A bill to be entitled "An Act to amend Chapter 4, Title 7 of the Code of Criminal Procedure of Texas of 1925 by adding Article 502a of said Code for the purpose of permitting a defendant who is charged with a felony to waive a jury regardless of whether the plea is guilty, not guilty or nolo contendere, and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Willis:

S. B. No. 108, A bill to be entitled

"An Act relating to the construction and operation of the jury wheel; amending Article 2095, Revised Civil Statutes of Texas, as amended; and declaring an emergency.

To the Committee on Jurisprudence.

Senate Resolution 48

Senator Hardeman offered the following resolution:

Whereas, We deem it necessary and to the best interests of the people of the State of Texas that a Senate General Investigating Committee be appointed, having the powers as herein-after set forth; Now, therefore, be it

Resolved, By the Senate of the State of Texas:

Section 1. That the Lieutenant-Governor be, and he is hereby, authorized to appoint a committee of five members of the Senate to sit at such times and places between the adjournment of the Fifty-sixth Legislature and the date of the convening of the Regular Session of the 57th Legislature, as may to said committee seem necessary and proper; and the committee shall continue the inquiries heretofore begun by the committee heretofore authorized and appointed, relative to law violations and the administration of all state laws and any of the matters pertaining to or affecting the revenues of the State government, and the expenditures of taxes, fees, and assessments, and to inquire into any other affairs and activities of governmental departments and institutions of whatever kind and character, as such activities in any way affect the financial or other welfare of the government and the citizens of Texas. Said committee shall make a study of any other governmental activity, and shall have authority to investigate and inquire into any such matters.

Section 2. That said committee shall have the power to formulate its own rules of procedure and evidence, and to provide for its own hours of meeting, recessing, and adjournment. Provided, however, that the rules of evidence to be followed shall be practically the same as followed in the courts of this State, and the committee is authorized to hold executive sessions, within its discretion, and then the committee may be governed by the rules of evidence applicable to any grand jury inquiry in this State.

Section 3. That the majority of the membership of the committee shall have power to issue process for witnesses to any place in this State, and to compel their attendance, and produce all books and records, and upon disobedience of any subpoena the said committee shall have the power to issue attachments which may be addressed to and served by either the sergeant-at-arms appointed by said committee or any sheriff or any constable of this State; and said committee shall have authority to cite for contempt anyone disobeying said process and to punish for such contempt in the same manner as provided for by general law. Said committee shall have power to inspect and make copies of any books, records, or files of the departments and institutions and any and all other instruments and documents pertinent to the matter under investigation by said committee, and to take possession of any files, records, papers in any department or agency of the State and to retain the same in its custody until any investigation in which such committee may be engaged or undertaken is completed, including any county or political subdivision of this State, and shall also have power to examine and audit the books of any person, firm, or corporation having dealings with departments and institutions under investigation by said committee. The committee shall have power to administer oaths and affirmations and fix the bonds of attached witnesses; and the committee shall further have all the powers necessary in order to accomplish the purposes for which it is appointed. Three members of such committee shall constitute a quorum for the transaction of official business.

Section 4. The witnesses attending under process shall be allowed the same mileage and per diem as is allowed witnesses before any grand jury in this State.

Section 5. Said committee shall have power and authority to employ and compensate all necessary investigators, auditors, clerks, stenographers, and other necessary employees, and it shall be the duty of said committee to make and keep a record of its investigations.

Section 6. That said committee may call upon the Attorney General's Department, Auditing Department, and all other departments for assist-

ance and advice, and it shall be the duty of the Attorney General's Department to render opinions, and give counsel and assistance to said committee on request of chairman or members of said committee.

Section 7. That said committee shall submit a report in writing to the 57th Legislature, and make such recommendations as it may choose to make. The compensation and expenses herein provided for incident to the work of such committee shall be paid out of the appropriation for mileage and per diem and contingent fund of the 56th Legislature and out of any fund otherwise appropriated by said Session of said Legislature for such purpose, upon sworn account of persons entitled to such pay, when approved by the chairman of said committee; and sufficient money is hereby appropriated out of the mileage and per diem and contingent fund of said 56th Legislature to meet the payment of such per diem, and expenses of the members of said committee, witnesses, fees, and other expenses incident to said investigation.

On motion of Senator Hardeman the reading of the resolution was dispensed with and he explained the resolution.

The resolution was then unanimously adopted.

Senate Resolution 49

Senator Herring offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate the first grade class of T. G. Harris Elementary School of Austin, Texas,

accompanied by their teacher, Mrs. Eula Mae Lyle; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital city; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this Resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Herring by unanimous consent presented the students and Mrs. Lyle to the Members of the Senate.

House Concurrent Resolution 20 on Second Reading

The President laid before the Senate on its second reading the following resolution:

H. C. R. No. 20, Inviting Senator Hubert R. Hudson to address a Joint Session of the Legislature at 11:00 o'clock a.m. on February 11, 1959.

The resolution was read and by unanimous consent was considered immediately and was adopted.

Adjournment

On motion of Senator Hardeman the Senate at 11:03 o'clock a.m. adjourned until 10:30 o'clock a.m. tomorrow.

In Memory of
Howell Jordan

Senator Herring offered the following resolution:

(Senate Resolution 43)

Whereas, In the passing of Howell Jordan, on the seventh day of January, 1959, the State of Texas, and in particular Travis County, lost one of its most outstanding citizens; and

Whereas, Howell Jordan was a distinguished member of the profession of pharmacy and served as a member of the State Board of Pharmacy for thirteen years, was a past president and chairman of the executive committee of the National Association of Boards of Pharmacy; and

Whereas, He was a well-known civic and business leader and opened the first of a chain of drug stores, Bray and Jordan, in Austin, Texas, in 1933; and

Whereas, He was a Scottish Rite Mason, a member of the Ben Hur Shrine and a member of the Austin and Texas Pharmaceutical Associations; and

Whereas, Howell Jordan served his community and his State well, giving unstintingly of his time and energy in the interest of civic betterment; and

Whereas, Howell Jordan is survived by his widow, Mrs. Rosie Jordan of Austin; one brother, Howard Jordan of Spicewood; and one sister, Mrs. Robert Fourquarean of San Marcos; and

Whereas, It is the desire of the Senate of the Fifty-sixth Legislature of the State of Texas to pay tribute to the memory of this distinguished citizen; now therefore be it

Resolved, That when the Senate adjourns today it do so in his memory and that a page in the permanent Journal of the Senate be devoted to the recording of this resolution; and be it further

Resolved, That an enrolled copy of this resolution be sent to the surviving members of his family as a token of respect and sympathy.

The resolution was read and was adopted by a rising vote of the Senate.

In Memory of
Captain John J. Klevenhagen

Senator Baker offered the following resolution:

(Senate Resolution 46)

Whereas, Almighty God, in His infinite wisdom and mercy, did on November 26, 1958, call to be with Him, Captain John J. Klevenhagen, Commanding Officer of Company A of the Texas Rangers, in Houston; and

Whereas, Law enforcement in the State of Texas suffered an irreparable loss in the passing of Captain Klevenhagen; and

Whereas, Captain Klevenhagen represented the highest standards of integrity, intelligence and bravery in fulfilling the arduous duties and requirements for a period of seventeen years as a Texas Ranger in the Department of Public Safety; and

Whereas, Captain Klevenhagen was a devoted husband and father and a worthy friend of countless thousands of persons who were aware of the numerous times this fearless peace officer had risked his life to protect their lives and property from hardened criminals. Colonel Homer Garrison, Jr., Chief of the Texas Rangers in his capacity as Director of the Department of Public Safety, has paid tribute to Captain Klevenhagen as a student of modern criminology, who mastered the complex technical skills of the profession and retained the character and ability exemplified by Texas Rangers in their long history of keeping the peace; and

Whereas, The Senate of the Fifty-sixth Texas Legislature now in session desires to memorialize the name of Captain John J. Klevenhagen in tribute to his dedicated life of service to the State of Texas; now, therefore, be it

Resolved, That the Senate adjourn this day in his memory and that this resolution be printed appropriately in a special page of the Senate Journal as a mark of respect to this distinguished peace officer's memory.

The resolution was read and was adopted by a rising vote of the Senate.

In Memory of
Dr. Bruce Shulkey

Senator Willis offered the following resolution:

(Senate Resolution 47)

Whereas, On the Twenty-second Day of February, in the Year of our Lord, Nineteen Hundred Fifty-eight, Almighty God in His Infinite Wisdom, called Dr. Bruce Shulkey to his Eternal Reward; and

Whereas, Bruce Shulkey contributed the adult years of his full life to educating boys and girls in our public school system. He served all echelons of the teaching profession from teaching in a small school to the highest executive duties in the Fort Worth Public School System; and

Whereas, Bruce Shulkey was recognized by common citizens, fellow teachers, and high executives in the field of education. He was loved by all who knew him, and more especially by the boys and girls whom he taught. They became better citizens because of their contact with him. His degrees and education accomplishments are too numerous to mention, and he held almost every position of honor and trust that could be given him by those who follow his profession; and

Whereas, This good man was devoted to his Family, Community, State and Nation. His life and work will stand forever in the halls of Texas education as a monument to honor, integrity and devotion to duty; now therefore, be it

Resolved, That a page in the Senate Journal be set aside in memory of Dr. Shulkey; and that when the Senate adjourns today it do so in his honor and memory; and, be it further

Resolved, That a copy of this resolution be sent to the members of his family with the deepest sympathy of the Senate of Texas.

The resolution was read and was adopted by a rising vote of the Senate.